

PREFACE

Practice, conventions and precedents are no less important than the Constitution and the Rules of Procedure for conducting parliamentary business. Rulings from the Chair are preserved not only for their historical value but also for the reason that they form the main guiding principles for interpretation of the various provisions of the Constitution and the Rules of Procedure made by the legislature for conducting its business. Besides, the provisions of the Rules of Procedure and Conduct of Business in the Assembly are sometimes not too pronounced to cover precisely certain peculiar circumstances and the decisions of the Chair are the only instrument for guiding the deliberations of the House in such cases. The decisions of the Chair, in a way, synthesise, what Erskine May has called, "the sometimes opposing interests of rule and practice at particular times in particular circumstances." The decisions on different parliamentary issues are considered not only immensely helpful to the Chair in arriving at a quick decision in similar or near-similar circumstances but also an inhibiting force in arbitrary exercise of powers by the Chair.

The work of compilation of the rulings of Presiding Officers of the old Legislative Assembly of Bengal was started after Independence although its need was felt long before and the decisions of Speakers of Bengal Legislative Assembly from 1937 to 1950, were published in five volumes, the first volume making its appearance in 1950. Thereafter, only one volume namely, Vol. VI, containing decisions of the Chair for the period 1952-1957 could be brought out since the West Bengal Legislative Assembly came into existence under the constitution of independent India. The work could not be continued for various reasons, administrative and otherwise. It will be appreciated that extracting and processing the decisions of the Chair on a wide assortment of parliamentary propositions from the records of Assembly debates entails a stupendous task. But even with our limited resources we are making a renewed effort to make the publications of the rulings up-to-date with the least possible delay. The present volume covers the period from 1957 to 1962 (February). Work on the successive volumes has already been undertaken and it is proposed to complete the compilation of the rulings till the dissolution of the last Assembly in the next three volumes.

Finally, I set down my deep debt of gratitude to the Hon'ble Syed Abul Mansur Habibullah, the present Speaker of the West Bengal Legislative Assembly for the valuable guidance he offered and the inspiration he infused among the officials engaged in this work.

D. N. BANERJEE,

Secretary,

West Bengal Legislative Assembly.

ASSEMBLY HOUSE,

CALCUTTA:

The 14th March, 1978.

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PART I

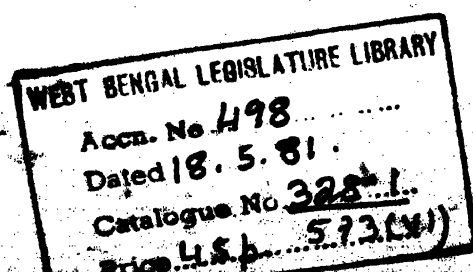
Decisions of

Mr. Speaker Shankardas Banerjee
from 4th June 1957 to 15th May 1959

And

Decisions of

Mr. Speaker Bankim Chandra Kar
from 22nd February 1960 to 1st March 1962



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PART II

**Decisions of Mr. Deputy Speaker Ashutosh Mallick
from 4th June 1957 to 28th February 1962**

PART I

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PART I

ADJOURNMENT MOTION

Consent refused—Text allowed to be read only

The text of the Adjournment Motion consent to which was refused by the Speaker was allowed to be read by the Member giving notice of the motion, but he was not allowed to read the statement appended to the adjournment motion.

Progs. 6th June, 1957, Vol. XVII, No. 1, page 87.

Identical subjects once read in the House are not further allowed to be read

On the 10th March, 1959, the Speaker did not allow the Members to read the texts of the adjournment motions given notices of by them on the ground that adjournment motions on identical subjects came up before the House and were read. He observed: "There are some adjournment motions. But I may tell you that adjournment motions came up before this House on identical grounds and these were read over. If each honourable member decides to put in adjournment motions on identical subjects, I am afraid I cannot allow the same to be read over and over again in the House".

Progs. 10th March, 1959, Vol. XXII, No. 2, page 892.

Whether other business can be taken up before discussion on Motion of Thanks starts

One member raised a point of order that after a motion of thanks was moved in reply to the Governor's Address, the Assembly should be adjourned for discussion of the motion and no other business could be taken up before such discussion. The Speaker ruled on the point of order stating that other business could be transacted but so far as the discussion of the motion of thanks was concerned, that discussion should be adjourned to a future date.

Progs. 5th June, 1957, Vol. XVII, No. 1, page 35.

Note: See Appendix I for full ruling.

When other parliamentary opportunities for discussion will occur

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Several adjournment motions were tabled on the subjects of rehabilitation lathi charges, starvation deaths, scarcity of foodstuff, etc. Consent was refused by the Speaker to these motions on the ground that the Members would get plenty of opportunities to criticise the Government on these subjects during the debate on Governor's Address, General Discussion on the Budget, Voting on Demands for grants and Appropriation Bills.

Progs. 4th June, 1957, Vol. XVII, No. 1, pages 20-21.

(ii)

Consent to adjournment motions on different subjects were refused as the matters sought to be raised therein, could be discussed during the debate on Governor's Address.

Progs. 17th February, 1958, Vol. XIX, No. 1, page 12.

AMENDMENT

Member may speak on amendment though out of order

An amendment given by a member may be out of order, but he may say what he wants to say on it.

Progs. 23rd December, 1958, Vol. XXI, page 371.

Only one member should speak when identical amendment is given by different members

If one amendment in identical language is given by a number of members all of them cannot be allowed to speak; only one member should speak on the amendment.

Progs. 23rd July, 1958, Vol. XX, No. 4, page 216.

BILL

A Bill can be introduced though there is no mention of it in Governor's speech

The full text of the ruling of the Speaker on the points of order raised on the West Bengal Irrigation (Imposition of Water-rate for Damodar Valley Corporation Water) Bill, 1958, may be seen in Appendix II.

Progs. 22nd July, 1958, Vol. XX, No. 4, pages 158-59.

Amendment to clause—when disallowed, Member may speak on the clause

When an amendment is out of order, the Member concerned is allowed to speak on the clause and not on the amendment. In course of his speech, the member cannot even indirectly place before the House the amendment which has been disallowed by the Speaker.

Progs. 4th July, 1957, Vol. XVII, No. 3, pages 165-66.

Amendment for circulation of the Appropriation Bill for eliciting opinion thereon is inadmissible

Disallowing an amendment tabled by a Member for circulation of the West Bengal Appropriation Bill, 1961, for the purpose of eliciting opinion thereon, the Speaker ruled as follows :—

"One amendment has been given by Shri Basanta Kumar Panda for circulation of the Bill for the purpose of eliciting public opinion thereon by the 28th February, 1961. This amendment, in my opinion, is inadmissible. The House has voted the Demands for Grants and these voted grants have been included in the Bill for allowing withdrawal of money from the consolidated fund as provided in the Constitution. The question of eliciting public opinion therefore, does not arise."

Progs. 22nd March, 1961, Vol. XXIX, No. 3, Part I, page 3.

The House can rescind its decision for declaring an amendment already carried as null and void

On the 7th September, 1961, an amendment to clause 8 of the Bengal Municipal (Second Amendment) Bill, 1961, moved by a non-official Member (Shri Subodh Banerjee) was accepted. But as the amendment was later found to be unnecessary, the Speaker proposed on the 8th September, 1961, that the proceedings as regards the carrying on of the amendment be declared as null and void and made the following observations:—

"We take up the Bengal Municipal (Second Amendment) Bill now. Before the third reading of the Bill is taken up, I want to say that yesterday amendment No. 42, relating to sub-clause (1) (cc) to proposed section 554, relating to clause 8, of the Bill, of Shri Subodh Banerjee was accepted by the House, but now I find that the amendment should not have been there as what was proposed to be inserted by amendment is covered by clause (2) appearing later.

If Shri Banerjee's amendment is accepted, then there is likelihood of inconsistency. Such inconsistency should not be there. The question is wheather the House should rescind its decision. Previously the House has taken such course by passing an order declaring the carrying on of an amendment to a clause accepted by the House as null and viod, the amendment having been passed inadvertently. The House unanimously agreed to discharge the previous order and the rights of the minorities were not affected. I refer to the proceedings of the Bengal Legislative Assembly Members' Emoluments (Amendment) Bill, 1959. I also refer to May, pages 414, 415 and 417. I also quote these few lines from May to justify the precedence of the House quoted above :

'But the practical incovenience of a rigid rule of inconsistency specially whether the House as a whole wishes to change its opinion, has proved too great for a body confronted with the everchanging problems of Government; and the rule prohibiting reconsideration of a decided question has come to be interpreted strictly according to the letter so as not to prevent open rescission when it is decided that it is desirable.'

So I want to know if the House would agree to declare the proceedings as regards carrying on of the amendment No. 42 as null and void. If the House agrees, I will put that the clause 8 as appearing on the Bill without any amendment from part of the Bill. If there is no objection, I take it as the decision of the House.

Now, I put that clause 8 do stand part of the Bill without the amendment.

(Pause)

I find there is no dissentient voice. So it is all right.

Progs. 8th September, 1961, Vol. XXX, No. 1, Part 5, Pages 9-10

Leave to withdraw a Bill is not a motion and therefore there is no scope of discussion thereon

On the 11th April, 1960, when the motion for leave to withdraw the West Bengal Estates Acquisition (Third Amendment) Bill, 1958, as reported by the Joint Committee, was moved by the Minister-in-charge of Land and Land Revenue, one Member (Shri Subodh Banerjee) raised a point that the leave to withdraw a Bill was a motion and as such there was scope of discussion

thereon like other categories of motions. The Speaker having ruled in the negative, the Member damaged a written ruling. On the 12th April, 1960, the Speaker ruled as follows :-

"I had promised that I would give my ruling on the point raised by Shri Subodh Banerjee. I had already expressed that the motion is in order and there is no conflict between rule 68 and rule 46 of the Assembly Procedure Rules. Rule 68 makes provision with respect to motions regarding legislation. Rule 68 covers cases for withdrawal of a Bill at any stage by a Member-in-charge of a Bill. Rule 46 deals exclusively with motions of all categories other than motion for leave to withdraw a Bill. Under rule 46 a Member who has proposed a motion can only withdraw, but in case of a withdrawal of a Bill the Member-in-charge can only withdraw it and the Member-in-charge of a Bill, in case of Government Bills, means and includes any Minister. The distinction is, therefore, clear.

I, therefore, affirm my decision given yesterday".

Progs. 11th April, 1960, Vol. XXV, No. 3, Part 12, pages 1-3 and 12th April, 1960, Vol. XXV, No. 3, Part 13, page 20.

Motion for reference of a Bill to Select Committee—Whether members whose names have been included in the Select Committee should participate in the debate.

When a Member rose to speak on the motion for reference of a Bill to the Select Committee in which his name had been included, the Speaker observed as follows :

"..... I do not see any sense—of course, there is no legal bar—for those honourable Members, whose names have been included in the Select Committee, to deliver any speech now. I would request them not to make any speech now but permit others who have not got a place in the Select Committee to place their views before the House. This is only request."

Progs. 12th December, 1957, Vol. XVIII, No. 2, page 294.

Private Members' Bill—Introduction should not be opposed

The Minister has legal right to oppose the introduction of a Private Member's Bill. But the Government in a democratic State takes into consideration the object of the Bill with which it is introduced and merely at the introduction stage the Government will perhaps not throw it out without giving due consideration.

Progs. 4th July, 1958, Vol. XX, No. 3, page 63.

Ruling on Constitutional points raised by Members

On the 13th March, 1959, two Members (Shri Basanta Kumar Panda and Dr. Jnanendra Nath Majumdar) raised certain Constitutional points on the Appropriation Bill. The full text of the ruling delivered by the Speaker on the 28th March, 1959, setting aside the points of order, is given in Appendix III.

Progs. 13th March, 1959, Vol. XXII, No. 3, pages 14-15 and 28th March, 1959, Vol. XXII, No. 3, pages 462-63.

When a Bill under discussion is withdrawn and replaced by a new Bill, whether the discussion should start de novo

When a Bill, which was under consideration by the House, was required to be withdrawn and replaced by a new Bill containing substantially the same provisions as in the previous Bill, a point arose as to whether the discussion on the new Bill should start *de novo*. Thereupon the Speaker ruled as follows:

".....just before the commencement of the day's business a copy of the new Bill—a cyclostyled Bill—was laid before me and I have gone through it. I found that there was no change whatsoever so far as the substance goes—may be there is a little change of language. It is exactly the same and I can assure you that none of the honourable Members will be inconvenienced so far as the substance is concerned. Therefore, I do not think any useful purpose would be served by repeating the arguments which are already before the House. Only those who have not finished their speeches will speak and I shall hear if they have any new thing to say. However, in view of all this, I think the House will have no objection to the motion of Dr. Roy that the Bill be withdrawn."

Progs. 13th December, 1957, Vol. XVIII, No. 2, page 356.

CUT MOTION

Cut Motions of similar nature are put to vote together

When one Member objected to the placing of all the cut motions to vote at a time, Mr. Speaker ruled as follows :

"It is regular to put all the motions to vote at a time. After all, the demand is to reduce the figure by Rs. 100. There are various reasons no doubt but the total demand is to be reduced by Rs. 100. There is no reason to put them separately."

Progs. 13th June, 1957, Vol. XVII, No. 2, page 44.

Cut Motion relating to Assembly Secretariat was allowed

On the 22nd March, 1960, Shri Jyoti Basu, Leader of the Opposition, tabled a notice of a cut motion on the demand for grant relating to General Administration about Assembly Secretariat employees. The Speaker at first disallowed the cut motion following a convention of the Assembly as well as of the Lok Sabha not to allow any discussion in the House about the employees of its Secretariat. But on the insistence of Shri Jyoti Basu and other Members, the Speaker allowed the cut motion and observed as follows :

"I have heard the honourable Members. The only difficulty is that the requirement of the department is supplied by the Government. The whole team of staff required by the Speaker is supplied by the Government. But in Lok Sabha the matter is different and the convention followed there does not strictly apply here. The creation of posts at the Centre is done by the Speaker. Here it is done by Government. So I allow the cut motion."

Progs. 22nd March, 1960, Vol. XXIV, No. 2, Part 212, pages 11-15.

Cut Motion relating to general policy on a Supplementary Budget is out of order

Declaring a cut motion tabled by a Member on a Supplementary Grant as out of order, the Speaker ruled "The way you have put your cut motion shows that it relates to general policy and general policy cannot be discussed in Supplementary Budget. It is out of order".

Progs. 17th March, 1959, Vol. XXII, No. 3, page 135.

Though out of order, Members may speak generally

Though their cut motions are out of order, the Members may speak generally on them.

Progs. 17th March, 1959, Vol. XXII, No. 3, page 136.

CONDUCT OF MEMBERS

Distribution of pamphlets in the House is not allowed without the permission of Speaker

No Member can distribute any pamphlet in the House without the permission of the Speaker. Any book or pamphlet given to a Member by another member in a friendly way is not objected to but distribution of any book by a Member is certainly not allowed without the permission of the Speaker.

Progs. 19th June, 1958, Vol. XX, No. 2, page 216.

BUDGET

Debate on a Budget Grant should be limited within that grant

If there is a particular grant—for instance Food—Members can discuss everything about food, but while discussing the grant for General Administration, it would not be relevant or pertinent to go into the question of food because if there is a grant earmarked for a particular purpose, then the debate should be limited to that particular matter only. Members should not try to import any general discussion on matter which are not included in the grant.

Progs. 4th March, 1959, Vol. XXII, No. 2, page 612.

Members may speak on a Budget Grant without moving a Cut Motion

On the 25th February, 1959, when the Education Grant was being discussed, the Minister-in-charge of Education (Shri Rai Harendra Nath Chaudhuri raised a point of order stating that "at this stage of budget no general speech can be made. Only a speech can follow after moving a cut motion. Therefore, at this stage without moving a cut motion, Dr. Ghosh cannot make a speech".

The Speaker ruled that the Member could speak on the main motion and observed :

"Apart from the cut motion the main motion is before the House and on the main motion criticism can be made".

Progs. 25th February, 1959, Vol. XXII, No. 2, page 293.

On the question of its alleged unconstitutionality

On the 16th February, 1959, some Members (Shri Siddhartha Sankar Ray and others) raised points of order stating that the budget discussion could not proceed as it was not prepared in accordance with the provisions of the Constitution. The full text of the ruling delivered by the Speaker on the 17th February 1959, setting aside the points of order is given in Appendix IV. Progs. 16th February 1959, Vol. XXII, No. 1, pages 370-81 and 17th February, 1959 Vol. XXII, No. 1. pages 397-99.

DEBATE

Absence of Ministers in the House

In course of debate on the Appropriation Bill on the 13th March, 1959, when the attention of the Speaker was drawn by a Member to the absence of Ministers in the House, the Speaker remarked: "This is most irregular. I condemn the practice. I will stop the business of the House until the Ministers come. I am rising for five minutes".

Progs. 13th March, 1959, Vol. XXII, No. 3, page 24.

Absence of Members when called to speak

On once occasion, when the Speaker called the names of three Members successively to speak on the Governor's Address, none of them was present in the House. Thereupon the Speaker observed as follows:

"It is most improper on the part of the Hon'ble member not to be present if he wishes to speak. I take it that it is not only an insult to the Chair which I have the privilege to sit on but it is most insulting, I take it, to the other members as well. Everybody should make it a point to be here in due time. If I am expected to be here with the stroke of the hour, I would expect everybody to be here at the stroke of the hour. Hereafter I will just omit their names."

Progs. 20th February, 1958, Vol. XIX, No. 1, page 142.

Adverse criticism—how far permissible

Adverse criticisms should be permitted from both sides of the House so long as they do not infringe the dignity and decorum of the House.

Progs. 13th July, 1957, Vol. XVII, No. 3, page 439.

Allegations against a Central Minister—Speaker took objection to the speech of a Member

The speech of a Member throwing allegations against a Central Minister was objected to by the Speaker as it contained sweeping and vague attack on the Minister without furnishing particulars in support of the allegations.

Progs. 21st June, 1957, Vol. XVII, No. 2, page 639.

Allegation against outsiders not permissible

No Member would make an accusation in the House against any outsider who has no opportunity to defend himself.

Progs. 27th June, 1957, Vol. XVII, No. 2, pages 1064-67.

Allegations of corruption against ex-Members—No charge of corruption can be brought up against outsiders unless it is linked up with administration—It is also the duty of the Government to investigate into the charges made in the House and to take appropriate actions according to law against the offenders

When a Member wanted to bring a charge of corruption against an ex-Member, the Speaker observed that whenever any charge of corruption was brought up, he would not allow that unless it was linked up with the administration. He also ruled as follows:

"I will not allow the charge of corruption to be made unless it could be clearly linked up with the administration as my personal view throughout has been that no private citizen as he is not a Member of the House and as he is not in a position to defend himself should be attacked. A private citizen can be only attacked if and when his activities are linked up with the administration.

* * * * *

This House cannot be converted into a court of law. I do not think that the legal principles connected with the administration of this House permit me to hold a trial of persons who are not Members of this House. This House has no power to do anything whatsoever in the shape of inflicting punishment against any person whatsoever. We are not principally concerned here with the question of penalty. If the administration is guilty of corruption and bribery, it is our primary duty, as honourable Members of this House, to criticize severely. If it is directed against a Member, surely the Member can say anything by way of an explanation—whether the explanation is satisfactory or not, we cannot help it. If a plausible explanation is there, the duty of this House ceases. If there is a charge of corruption against any particular officer of this Government and if pointed attention of the department concerned has been drawn to it, we have nothing further to do.

* * * * *

After the pointed allegation ***and reference to materials to which the attention of the Hon'ble Minister concerned has been drawn, I think it is the duty of the Hon'ble Minister to make such investigation as he considers proper by taking the good offices of the Police or any other administrative body like the Enforcement Branch as he considers fit. If, as a result of the investigation, the Hon'ble Minister finds that a case, which will stand in a court of law, has been made out on the basis of which a charge can be framed in consultation with his legal advisers—I mean the Legal Remembrancer of West Bengal—it would be the duty of the Government to prosecute the particular officer concerned and any other outsider who may be responsible for acting in collusion or conspiracy with him. Beyond that I do not think we have the power to go even one step further. I have taken the precaution of looking into the House of Commons procedure, the rules and so on and so forth. Without a proper investigation—it is not an enquiry by the House—in accordance with the law of criminal procedure nobody on earth can get the necessary materials for framing a charge. If the Government is so minded to do it, it would do it, but I hope—and through the ruling of mine I am asking the Government—that having regard to the serious nature of the charge, Government will kindly act in the best possible way and according to Law."

Progs. 20th February, 1958, Vol. XIX, No. 1, pages 149 and 25th February, 1958 of the same Vol., pages 234-36.

Any Member about whom a reference is made in the House with respect to his conduct whether inside or outside the House must be given an opportunity to explain his position

On the 22nd November, 1960, Shri Jyoti Basu, Leader of the Opposition, tabled an adjournment motion in respect of a statement of the Prime Minister reflecting on the conduct of a Member of the Assembly Shri Satyendra Narayan Majumdar. The Speaker withheld his consent to the adjournment motion. Shri Basu, however, wanted to put certain question to Shri Majumdar on the matter through the Speaker under rule 31(2) of the West Bengal Legislative Assembly Procedure Rules (old rules) relating to asking of a question to a Private Member. The Speaker allowed Shri Majumdar to make a statement observing: "As it is a very grave matter and as the conduct of a certain Member of the Legislative Assembly is involved I think he must be given some little opportunity to clear up the position."

On the 23rd November, 1960, another Member Shri Sankardas Bandyopadhyaya raised a point of privilege requesting the Speaker to reconsider his decision given on the 22nd November, 1960, on the ground that it might create an extraordinary precedent in the House inasmuch as rule 31(2) had no application in the matter as it did not concern a Bill, motion or other matter connected with the business of the Assembly. On the 28th November, 1960, the Speaker gave his ruling upholding his previous decision observing *inter alia* "From the proceedings Hon'ble Members will please find that I did not say that I permitted an answer to be given to a question put under rule 31(2) of the Assembly Procedure Rules. I allowed Shri Majumdar only to make a statement because he was the subject of an adjournment motion tabled by Shri Jyoti Basu in which he seemed to appear in a bad light as his name has been unfortunately mentioned in connection with some business of the House, namely, Shri Jyoti Basu's adjournment motion. In such a case Shri Majumdar was perfectly entitled to clear up the position by making a statement and I gave him permission accordingly". The Speaker also referred to the precedents of the House of Commons as well as of the Indian Parliament where statements by Members whose conduct inside or outside the House had been referred to on the floor of the House, were permitted. Finally, the Speaker observed in his ruling: "Lastly, I may say that if any other decision had been taken by me, namely, if the making of a statement by Shri Majumdar was not permitted under the circumstances, that would have denied the House the first quality of a really deliberative Assembly".

The full text of the ruling delivered by the Speaker on the 28th November, 1960, is given in Appendix V.

Progs. 22nd November, 1960, Vol. XXVIII, No. 1, Part 3, pages 2-4 and pages 9-10, 23rd November, 1960, Vol. XXVIII, No. 1, Part 9, pages 45-49 and 28th November, 1960, Vol. XXVIII, No. 1, Part 11 pages 23-24.

Bringing outsiders into discussion will lead to expunction of relevant portion of the speech of Member

On the 10th February, 1959, when one Member (Shri Dasarathi Tah) referred to an outsider in course of his speech, the Speaker observed:

"I have repeatedly warned Members not to bring in any outsiders who are not here to defend themselves. If they violate it, the portion of speech can only be expunged. It is not a good thing to speak against a person who cannot defend himself".

Progs. 10th February, 1959, Vol. XXII, No. 1, page 301.

Central administration cannot be discussed

When a Member in course of his speech on the general administration budget wanted to discuss about the Central Administration on the plea that the general administration of the State was part of the administration of India as a whole, the Speaker ruled that the Central Administration could not be discussed in the House.

Progs. 17th March, 1961, Vol. XXIX, No. 2, Part 13, pages 23-24.

Criticism of earlier determination of House not permissible—previous Act cannot be criticised except on a motion for amending or rescinding it

When a Member in his speech on a budget grant, criticised the Sales Tax Act, a point was raised by another Member that under rule 13(2)(iii) of the West Bengal Legislative Assembly Procedure Rules (old rules), no reflection could be made on any determination of the Assembly except on a motion for amending or rescinding it. Thereupon the Speaker ruled as follows:

“.....The determination of the Assembly was the passing of the Act itself and if you are out to condemn it, you have got to take out a motion for amending the Act itself or for rescinding the Act as a whole. In that case it is open to you to condemn the Act. What is being debated now is not trying to amend the Act itself or rescind the Act itself. The application of the Act can be certainly open to all criticisms from the House.....”.

Progs. 27th June, 1957, Vol. XVII, No. 2, pages 1110-11.

Criticism on Minister's private affairs

Members may criticise the official acts of a Minister with impunity, but they should not go into his private affairs.

Progs. 20th December, 1958, Vol. XXI, page 251.

Government officers can be criticised for wrong done in discharge of official duties

For any wrong done in the course of discharging his official duties a Government officer can certainly be criticised in the House.

Progs. 4th March, 1959, Vol. XXII, No. 2, page 615.

Hand-out permitted to be laid by a Minister treated as part of the proceedings together with his speech

In connection with the discussion on the food situation in the State, the Members were supplied with copies of a hand-out which was also permitted by the Speaker to be laid in the House by the Food Minister. On the question as to whether apart from any speech going to be delivered by the Minister, the hand-out should be treated as part of his speech, the Speaker ruled as follows:

“I find from the proceedings such identical things came before the House and it was decided in one of rulings that such thing can precede a speech. So I rule that the speech together with the hand-out will go in the proceedings.”

102 Progs. 26th July, 1958, Vol. XXI, No. 4, page 377.

Head of foreign State not to be mentioned in debate

The head of a foreign State must not be mentioned in the debate.

Progs. 19th June, 1957, Vol. XVII, No. 2, page 544.

High Court Judges' appointment not to be discussed

It is not appropriate to discuss the appointment of High Court Judges as they are appointed by the President of India.

Progs. 26th June, 1957, Vol. XVII, No. 2, page 1037.

Maiden Speech of a Member should not be interfered

When a Member is delivering his maiden speech, nobody has the right to interfere him.

Progs. 26th February, 1959, Vol. XXII, No. 2, page 289.

Members should not preferably read out a Speech

When a Member had read out a speech the Speaker observed as follows :

"I noticed that a written speech was read out. Preferably that should not be done. Hon'ble Members will kindly make a speech, address the House, but preferably not read out anything that might have been reduced into writing beforehand."

Progs. 6th June, 1957, Vol. XVII, No. 1, page 117.

No charges can be made against a Member or his party or an outsider without particulars

One Member complained against another Member that in course of his speech the latter had made certain serious allegations against him and his party which were baseless. Thereupon the Speaker ruled as follows :

"..... I have, after carefully reading the speech made by the honourable member Mr. Shukla, come to this conclusion that Mr. Shukla should not have made charges against you or your party without furnishing particulars. I insist that if any charges are made by any honourable member against any individual or any party, he must be prepared to come forward with particulars. It is unfair to make charges unless they are supported by particulars and because of the absence of particulars I do not approve of the charges made by Mr. Shukla.

I do not think it is necessary, after what I have said, that the matter should be referred to the Committee of Privileges. But I may remind every honourable member on both sides of the House that in future if any member wishes to make any charge against any individual member or his party or any outsider, not present in this House, he should be very careful about it because I shall not allow these things to be done unless particulars are furnished."

Progs. 14th June, 1957, Vol. XVII, No. 2, page 99.

One Member cannot challenge another Member in the House

When one Member challenged another Member in the House on some matter, the Speaker observed that no Member could throw a challenge in the House and no Member could accept it.

Progs. 6th June, 1957, Vol. XVII, No. 1, page 105.

Paper quoted by a Minister should be laid before the House

On the 31st March, 1960, Shri Jyoti Basu, Leader of the Opposition raised a point that the letter which was once read in the House by Sm. Maya Banerjee, a Deputy Minister, should be laid before the House to facilitate discussion on the refugee budget. The letter was written by a State Government Minister to the Central Minister for Refugee Rehabilitation. The Speaker assured the House that the portion of the letter read by the Deputy Minister in the House, should be incorporated in the proceedings. On the 1st April, 1960, another Member Dr. Ranendra Nath Sen raised a point of privilege contending that the letter read in the House should be placed before the House in original. On the 7th April, 1960, the Speaker ruled that a document which had been cited ought to be laid on the Table of the House, if it could be done without injury to the public interest.

The full text of the ruling delivered by the Speaker is given in Appendix VI.

Progs. 31st March, 1960, Vol. XXV, No. 3, Part 4, pages 28-30, 1st April, 1960, Vol. XXV, No. 3, Part 5, pages 1-2, and 7th April, 1960, Vol. XXV, No. 3, Part 9, pages 29-31.

Quoting from newspaper report during debate is not allowed—only a gist can be given

Quoting from newspaper report during debate was not allowed by the Speaker. The member was asked to give a gist of the report.

Progs. 13th June, 1957, Vol. XVII, No. 2, page 81.

Quoting newspapers reports—short extracts can be read in debate, but not to be read in extenso

Short extracts from newspaper reports are allowed to be read in debate, but such reports cannot be read in extenso.

Progs. 24th July, 1958, Vol. XX, No. 4, page 257.

Reading out of speech by a new Member allowed

When one Member objected to the reading out of a speech by another Member, the Speaker observed as follows :

“At one time I made it a rule that nobody should speak from manuscript note but I relax the rule in favour of new members. Finding that some members are in difficulty, I may inform the parties that I would permit reading from manuscript at least for the time being.”

Progs. 4th June, 1957, Vol. XVII, No. 1, page 273.

Reading a written speech—whether permissible

It is not a custom to read a written speech.

Progs. 17th June, 1958, Vol. XX, No. 2, page 89.

Reference to earlier debates in the same session except with regard to a Bill

Reference to debates in the same session is discouraged even if such reference is not irrelevant as it tends to open matters already discussed. The only thing on which prior debate can be referred to in the same session is with regard to a Bill.

Progs. 26th February, 1958, Vol. XIX, No. 1, pages 335 and 341.

Reference to officers present in the gallery

Members cannot refer in the House to any officer sitting in the gallery be he one of the finest officers or a worst one.

Progs. 2nd January, 1959, Vol. XXI, Page 609.

Speaker to decide whether a Member's speech is irrelevant

Whether a Member is speaking irrelevant or not, is decided by the Speaker alone. It is a matter which concerns nobody in the House except the Speaker himself.

Progs. 8th June, 1957, Vol. XVII, No. 1, page 201.

Speech—half in Bengali and half in English—not allowed

Members can have the choice of their language—they cannot be allowed to speak half in Bengali and half in English.

Progs. 24th June, 1958, Vol. XX, No. 2, page 463.

Speeches of members who are absent when called to speak

On one occasion when the Speaker called the names of two members to speak, they were found to be absent. Thereupon the Speaker observed as follows :

“Once I call out the names of members and there is no response, I will take it for granted that the speeches have been delivered.”

Progs. 16th July, 1958, Vol. XX, No. 3, page 476.

Use of tape-recorder in the House during debate

The use of a tape-recorder to apprise the House about the discussion a Member had with some outsiders on a particular matter, is not allowed.

Progs. 2nd January, 1959, Vol. XXI, page 585.

LAYING OF REPORT

Report of Public Service Commission—Government should not make delay in its presentation

On the objection raised by one Member (Shri Sisir Kumar Das) on the 18th March, 1959, to the delay made in placing report of the Public Service Commission, the Speaker observed that though no time limit had been fixed by the Constitution, the Government should not make delay in presenting the Report of the Public Service Commission before the House.

Progs. 18th March, 1959, Vol. XXII, No. 3, page 198.

MOTION

Motion of Thanks to the Governor's Address—Amendment thereof

Amendments to the Motion of Thanks on Governor's Address were modified for containing matters which were not concern of the State Government.

Two amendments to Motion of Thanks on Governor's Address contained matters relating to Damodar Valley Corporation and corrupt practice during the election. As these were not the concern of the State Government, the amendments had to be modified by omitted these matters for being moved in the House.

Progs. 4th June, 1957, Vol. XVII, No. 1, page 49.

OBITUARY REFERENCE

Obituary reference to the persons who died of a railway accident

After the Chief Minister had made a statement on a railway accident causing death to some passengers. the Speaker requested the members to stand in silence for two minutes in memory of the deceased to record their condolence. Thereupon the members rose in their seats and stood in silence for two minutes.

Progs. 26th February, 1958, Vol. XIX, No. 1, page 300.

OPPOSITION

Leader of the Opposition—Ruling by Speaker for recognition

The entire ruling on the question of recognition of Leader of the Opposition may be seen in Appendix VII.

Progs. 25th June, 1957, Vol. XVII, No. 2, pages 947-48.

POINT OF ORDER

There cannot be any point of order in the midst of a division

On the 11th April, 1960, when a motion was put to a division, one Member wanted to raise a point of order. The Speaker ruled—"In the midst of a division there cannot be any point of order".

Progs. 11th April, 1960, Vol. XXV, No. 3, Part 12, page 3.

Point of order cannot be raised during the middle of a reply

There cannot be any point of order in the middle of the reply being given by a Minister.

Progs. 14th June, 1958, Vol. XX, No. 1, page 643.

PRACTICE—MINISTER'S STATEMENT

Statement by a Minister cannot be contradicted by a Member

A member cannot contradict the statement of a Minister. Even if the Minister does not admit a fact, the member cannot raise a controversial question.

Progs. 2nd December, 1957, Vol. XVIII, No. 1, page 268.

Speaker cannot compel a Minister to make a Statement

The Speaker cannot compel a Minister to make a statement. He can only make a request. If there are grounds then the Minister may make a statement.

Progs. 23rd November, 1960, Vol. XXVIII, No. 1, Part 9, page 23.

PRIVILEGE

Procuring copy of a Bill before its circulation to Member and briefing a Member by an outsider to support it in the House, was not considered to be a breach of privilege

On the 23rd February, 1960, one Member (Shri Jatindra Chandra Chakravarty) raised a point of privilege alleging that an outsider approached him on the 15th February, 1960, with a typed copy of the Oriental Gas Company Bill and requested him to support the compensation clause in it. He requested the Speaker to enquire as to how an outsider could procure a copy of the Bill before its circulation to Members. Another Member (Shri Subodh Banerjee) contended that it was a breach of privilege for an outsider to brief a Member to support a particular measure in a Bill and requested the Speaker to refer the matter to the Committee of Privileges. In a ruling given on the 3rd March, 1960, the Speaker observed—"At my request, Shri Chakravarty had laid on the table the paper on which he urged the point of privilege raised by him. I have examined the paper. It is only plain sheet of paper on which the Bill has been typed. No signature of any person appears and the document is such that no *prima facie* case can be made out from the document. I cannot see any point of privilege in this matter. If the honourable member wishes to probe further into the matter he ought to put down a question to the Minister responsible for answer. I am bound to say that the honourable member has disclosed nothing at all which would enable me to refer it as a *prima facie* case where I ought to give permission to refer it to the Committee of Privilege".

After the ruling was delivered, another Member (Shri Siddhartha Shankar Ray) raised a point of privilege on the 4th March, 1960, on this very issue questioning whether the Speaker could disbelieve the statement of a Member and arrogate to himself the power of the Privileges Committee. Another ruling was given by the Speaker on the 9th March, 1960, setting aside the point raised by the Member (vide Appendix VIII).

Progs. 23rd February, 1960 Vol. XXV, No. 1, pages 53-54; 3rd March, 1960, Vol. XXV, No. 1, page 349, 4th March, 1960, Vol. XXV, No. 1, pages 392-95; and 9th March, 1960, Vol. XXV, No. 2, Part 3, pages 1-3.

Publication of certain remarks of Chief Minister by a newspaper in contravention of Speaker's order was held to be a prima facie breach of privilege

On the 30th November, 1960, one Member (Shri Jatindra Chandra Chakravarty) raised a point of privilege that certain remarks of the Chief Minister made during his speech on the resolution regarding the transfer of Berubari Union to Pakistan, had appeared in the "Hindusthan Times" of New Delhi in contravention of the order of the Speaker in this regard. The matter was referred to the Committee of Privileges by the Speaker on the 6th December, 1960, with the following order—"A question of privilege was raised by Shri Jatindra Chandra Chakravarty regarding the publication of certain remarks of the Chief Minister in contravention of the order of the Speaker in the House by 'Hindusthan Times'. I find that there is a *prima facie* case and accordingly I send it to the Privilege Committee to see if there has been any breach of privilege and if so, for its recommendation in the Matter".

Progs. the 30th November, 1960, Vol. XXVIII, No. 2, Part 2, page 30 and the 6th November, 1960, Vol. XXVIII, No. 2 Part 7, pages 57-58.

[NOTE—The paper having apologised and produced a later edition in which the impugned portion was deleted, the matter was recommended to be dropped by the Privilege Committee.]

Statement of Inspector-General of Police published in a newspaper did not infringe the privileges of the House as it contained no attack on any individual member or any political party by name—it did not also contain charge against members for their conduct as members in relation to any business of the House

On the allegation that the statement of the Inspector-General of Police published in a newspaper in connection with the law and order situation in Howrah contained accusation against political parties and indirectly members of the Legislature and influential people of giving protection to the anti-social elements, the Speaker ruled as follows:

"..... The Staff Reporter of the 'Statesman' has sought to reproduce the result of discussion which he had with the Inspector-General of Police. Strictly speaking, this cannot be considered to be a statement of the Inspector-General of Police himself. Even assuming that the report which appeared in the 'Statesman' amounts to a statement of the Inspector-General of Police, in my view, no privilege of the honourable members of this House is infringed—no honourable members have been attacked individually nor any political party has been attacked by name. All that the statement goes to show is that due to interference of influential persons police is finding it difficult to discharge its duties. There is also mention that many of criminals are stated to have worked during the election when they were organised and the criminals became more powerful with financial and other support. I am quoting these things verbatim from the 'Statesman'. This, in my view, does not infringe the privilege of the members of the House.

From the reference to the last general election it may, however, be inferred that candidates for election and possibly some who have been elected are involved. Even if there is such a charge it cannot be said that any breach of privilege has been committed. Because, the charge, if there be any, is not against the members in their capacity as members for their conduct in relation to the business of the House. The following passages from May's Parliamentary Practice, 15th Edition, page 125, will be sufficient to dispose of this aspect of the matter as stated above:

'Analogous to molestation of Members on account of their behaviour in Parliament are speeches and writings reflecting upon their conduct as Members. On 26th February, 1971, the House of Commons resolved that to print or publish any libels reflecting upon any member of the House for or relating to his service therein was a high violation of the rights and privileges of the House.

'Written imputations, as affecting a member of Parliament, may amount to breach of privilege, without, perhaps being libels at common law but to constitute a breach of privilege a libel upon a Member must concern the character or conduct of the Member in that capacity, and the conduct or language on which the libel is based must be actions performed or words uttered in the actual transaction of the business of the House.

For example, aspersions upon the conduct of Members as magistrates or officers in the army or navy or as counsel or otherwise than in relation to Parliament, are not fit subjects for complaints to the House of Commons, even if the inference is to be drawn that they are unworthy to sit in Parliament.

A charge that the Commons included men who draw.....their living and their notoriety from the steady perpetration of crimes was ruled not to be a case of privilege'."

Progs. 13th March, 1958, Vol. XIX, No. 2, page 372.

Service of notice on a Government Servants' Association for being addressed by a Member, is not a breach of privilege

On the 11th February, 1959, one Member (Shri Siddhartha Sankar Ray) raised a point of privilege stating that a notice had been served on a Government Employees' Association to show cause why their recognition should not be withdrawn because they took a Member of the West Bengal Legislative Assembly as their chief guest. He upheld that it was a point of privilege as it related to a member of the Assembly. On the 28th March, 1959, the Speaker ruled that there had been no *prima facie* breach of privilege in that case.

The full text of the ruling is given in Appendix IX.

Progs. 11th February, 1959, Vol. XXII, No. 1, page 356 and 28th March, 1959, Vol. XXII, No. 3, pages 459-62.

Treasury Bench does not enjoy more privileges

The Treasury Bench does not enjoy more privileges than the other Benches do.

Progs. 23rd July, 1958, Vol. XX, No. 4, page 180.

Whether presence of any Police Officer in the House is a breach of privilege

If there were any security officers in the lobby or anywhere near the Chamber, it would be directly against the rules—it would amount to a breach of privilege if any Police Officer, whatever his rank may be, enters the House, contravening the rules.

Progs. 25th March, 1958, Vol. XIX, No. 3, page 240.

PUBLIC ACCOUNTS COMMITTEE

Its meetings should be presided over by opposition party and its report should not be discussed in the House

The following was the observation of the Speaker in regard to the Public Accounts Committee, namely:

"As regards the Public Accounts Committee, I have never been in favour of two things—first, that opposition Party shall not preside over the meetings of the Public Accounts Committee—I have always thought that the opposition party should do so. But I also wish all honourable members to take note of one fact..... The Report of the Public Accounts Committee is never discussed in England—it is never discussed except when a scandalous matter is involved. Public Accounts Committee's Report is not discussed in the House of Commons."

Progs. 18th March, 1959, Vol. XXII, No. 3, page 190.

The Chairman of the Committee should be an opposition member

Referring to the practice in the House of Commons, of appointment of a Senior Opposition member by convention as Chairman of the Public Accounts Committee, the Speaker observed that perhaps some day we should also follow the same procedure.

[NOTE—Since 1967, the Chairman of the Public Accounts Committee of the West Bengal Legislative Assembly is being appointed from the opposition party.]

Progs. 3rd March, 1958, Vol. XIX, No. 2, page 43.

The report of the Committee should not be discussed in the House

Before the debate on the Report of the Public Accounts Committee started, the Speaker observed as follows:

"..... In England in the House of Commons they do not debate this matter at all. This is a matter of formality. It is laid before the House. The honourable members who are really anxious go through it, but normally the debate never follows. I do not want to stop you today, but such honourable members who are inclined to look into this matter will kindly consult this Book—The Control of Public Expenditure by Chub, 1952 publication, pages 190, 191, 192, 193 if you will kindly read it, you will see that it is not a normal thing. Unless there is something of current interest or very important justifying that a debate should follow, no debate normally takes place in the House."

[NOTE—The Reports of the Public Accounts Committee are not discussed in the West Bengal Legislative Assembly now-a-days.]

Progs. 3rd March, 1958, Vol. XIX, No. 2, page 39.

QUESTION

Clubbing of a Short Notice question with an ordinary question cannot be done

Under rule 57, sub-rule (4), there is a provision that when two or more Members give notices of Short Notice questions on the same subject and if one of the questions is accepted for answer at Short Notice by the Minister, the names of other Members can be bracketted with the name of the Member whose question has been accepted for answer. Under the rule only Short Notice questions are to be clubbed together if they are on allied subjects but questions of mixed nature—one of Short Notice and another of ordinary notice and also couched in different languages—cannot be consolidated into a single question with the names of the Members bracketted together.

Progs. 7th September, 1961, Vol. XXX, No. 1, pages 96-97.

Minister can point out that a question is irrelevant

While answering to a question, a Minister pointed out that a supplementary question raised by a Member was irrelevant. The Member having questioned whether the Minister could decide the relevancy or irrelevancy of a question, the Speaker observed—"Any Minister answering a question can point out whether it is relevant or irrelevant. It is for me to say 'Yes' or 'no'".

Progs. 19th September, 1961, Vol. XXX, No. 2, part, 2-5, page 73.

No question on the Budget presentation day.

On the 11th February, 1959, fixed for Budget presentation, one Member (Shri Ganesh Ghosh) asked—"Sir, we do not find any question today. There are large number of questions for answer." Thereupon the Speaker observed—"I understand, from the Secretary that it is the practice that no questions are taken up on the day when the Budget is presented".

Progs. 11th February, 1959, Vol. XXII, No. 1, page 339.

Questions based on newspaper reports

Questions based on newspaper reports are disallowed—even Ministers should not refer to newspaper reports while giving replies.

Questions based on newspaper reports are disallowed. A supplementary question based on a newspaper report was disallowed by the Speaker, but when in giving reply to certain other supplementary question, the Minister referred to the newspaper report, the Speaker observed as follows:

"..... Since I disallowed it, I do not see how you could answer something which is based on that very newspaper report. I would request the Hon'ble Ministers to pay a little more attention to my decision and not answer a question unless it is warranted."

Progs. 4th December, 1957, Vol. XVIII, No. 1, page 398.

Reasons for disallowing a question are not discussed in the House

The reasons for disallowing a question are not discussed in the House.

Progs. 14th June, 1957, Vol. XVII, No. 2, page 98.

Reasons for disallowing questions are not usually communicated to the Members

On the request of certain Members for communicating to them disallowing questions, the Speaker made the following observation:

"So far as the Parliament, the House of Commons and other Assemblies are concerned, only notice is given that the question is disallowed. If the member concerned is not satisfied, he goes to the Secretary and even if the Secretary cannot satisfy him, he approaches the Speaker. Then the Speaker brings the file and makes him understand the position. If the Speaker thinks that he ought not to have disallowed the question, then he allows it. That is the position. There is no written law on this point either this way or that way".

Progs. 22nd February, 1961, Vol. XXIX, No. 1, page 179.

Supplementary questions—Member giving notice of the question given priority in asking supplementaries

Supplementary questions must first be asked by a member who has given of the question and after that other members may put supplementaries.

Progs. 10th June, 1957, Vol. XVII, No. 1, page 224.

Supplementary question—Speaker not to give explanation for disallowing

Speaker is not bound to give any explanation for disallowing a supplementary question put by a member.

Progs. 3rd July, 1957, Vol. XVII, No. 3, page 66.

Supplementary questions—Only the essential ones will be allowed.

Too many supplementary questions are responsible for answering of very few questions in the House. Only the essential ones will be allowed and the rest disallowed.

Progs. 17th July, 1958, Vol. XX, No. 3, page 503.

RESOLUTION

Amendment of Resolution. Mover cannot suggest amendment

The mover of a resolution cannot suggest any amendment to his resolution.

Progs. 12th July, 1957, Vol. XVII, No. 3, page 392.

SPEAKER

Allowing Minister to make a statement before question hour

The Chief Minister was allowed to make a statement on the incident of explosions in a colliery at Asansol before the question hour in consideration of the importance of the matter as "some members may feel like going to the spot or some members may be interested to know facts about the tragedy".

Progs. 12th July, 1957, Vol. XVII, No. 3, page 392.

Power of securing presence in the House of the arrested members—Speaker has no right in the matter

When a member requested the Speaker for securing the presence in the House of the arrested members to enable them to cast their votes on the no-confidence motion, the Speaker observed that he had no right under the law to direct the prison authority to bring the arrested members to the House.

Progs. 27th March, 1958, Vol. XIX, No. 3, page 324.

UNPARLIAMENTARY EXPRESSIONS

"Baper Zomidari" and "Dalali"

The expressions like *"Baper Zamindari"* and *"Dalali"* are unparliamentary as these are inconsistent with the dignity of the House.

Progs. 19th June, 1957, Vol. XVII, No. 2, page 453.

"Damned Lie"

The words *"Damned lie"* uttered by a member in respect of a statement of the Prime Minister were expunged from the proceedings by the Speaker as unparliamentary expression.

Progs. 22nd November, 1960, Vol XXVIII, No. 1, Part 3, page 10 and p. 14.

"False"

When one Member remarked that the answer to a question was false, the Speaker advised him to use the word *"untrue"* instead of *"false"*.

Progs. 14th September, 1961, Vol. XXX, No. 1, Part 10, page 14.

"Hybrid"

Of the expression *'denationalised hybrid'* used by a Member in reference to a Minister the word *'hybrid'* was expunged from the proceedings by order of the Speaker.

Progs. 10th February, 1961, Vol. XXIX, No. 1, pages 115-17.

"Shamelessly"

On the 4th March, 1959, in course of his speech when one Member (Shri Deo Prakash Rai) wanted to know whether he could use the word *'shamelessly'*, the Speaker observed—"I am told that you cannot use the word *'shamelessly'*, please try to avoid it".

Progs. 4th March, 1959, Vol. XXII, No. 2, page 633.

VISITORS

Admission of Visitors to meet the Members

As regards admission of visitors for meeting the Members, the Speaker informed as follows:

"About the admission of visitors, I have instructed that any visitor who would like to contact any Member of the House, would secure admission and would be requested to sit in the visitors' room provided for. There he will write on visitor's slip his name and the Member whom he wants to see. The slip will be passed on to the

Member who would meet the visitor. I hope this will satisfy the Members for the present. if you have friends and guests, you can certainly bring them along with you but if those guests come by themselves that is, of course, not allowed".

Progs. 7th September, 1961, Vol. XXX, No. 1, page 97.

Clapping from visitors' galleries by stranger will lead to his expulsion from the House

When there was some hand-clapping from visitors' galleries, the Speaker observed as follows:

'Let it be clearly borne in mind that any clapping by stranger will lead to his expulsion from the House. I cannot imagine any honourable Member of the House will indulge in this practice'.

Progs. 10th July, 1958, Vol. XX, No. 3, page 341.

VOTE ON ACCOUNT

No general discussion is necessary and no separate demands are to be made on Vote on Account

A Vote on Account is taken only for an interim period pending the final passing of the Budget to enable the Government to carry on. The term "Vote on Account" itself connotes that the money is taken in advance and will be accounted for in the future. When making the final demands, the amount taken on vote on account is deducted. No policy of Government is involved in the voting of the demand for a vote on account. The question of a general discussion on Government policy will arise when the Government comes up with their final demand for grants—and the Assembly will have ample opportunity of having, and will be entitled under Rule 114 to have, a general discussion at that time. There cannot be two general discussions on the same Budget—one at the time of the vote on account and another at the time of the final passing of the passing of the Budget.

Article 203 and Article 204 which have been made applicable by Article 206(3) to a vote on account provide that a demand for any "grant in advance" (as a vote on account is called in the text of the article) shall be put to the vote of the Assembly and there must be an Appropriation Bill with regard to the same. Nothing is said there as to how the Demand for the Grants should be discussed or put to vote. The Assembly Procedure Rules provide for the same. The requirement of the article is satisfied if a demand is made and put to vote and an Appropriation Bill passed. It is not necessary that separate demands should be made by individual Ministers.

Progs. 27th February, 1958, Vol. XIX, No. 1, pages 359-60.

VOTING

Announcement of result postponed on request from Members

The result of a voting was not announced by the Speaker following a request from the Members to withdraw the voting and to give them a chance to arrive at a unanimous decision over the matter. The Speaker postponed the announcement of the result of the voting and agreed to put the matter again to vote.

Casting of double votes by a Member.

When objections were raised that a Member had cast double votes in a division, the Speaker ruled it to be a *bona fide* error.

Progs. 24th June, 1957, Vol. XVII, No. 2, pages 824 and 862.

Members having pecuniary interest should not vote on a Bill.

On the 26th September, 1959, when the Deputy Speaker was going to put to vote a circulation motion on the Calcutta Municipal (Amendment) Bill, 1959, one Member (Shri Basanta Kumar Panda) raised a point of order that one amongst the Members of the House was an employee of the Calcutta Corporation and also nominated member of the Corporation, and asked whether that Member would be allowed to vote on the Bill which related to the Corporation. The Deputy Speaker observed that if that Member had got any pecuniary interest, he should not vote.

Progs. 26th September, 1959, Vol. XXIII, page 239.

PART II



ADJOURNMENT MOTION

Speech made by a Member after reading out the adjournment motion should be expunged

On the 23rd November, 1959, one Member raised a point of order questioning as to whether the speech made by a Member after reading out the adjournment motion, should be expunged from the proceedings of the House or not. The Deputy Speaker ruled that as he had allowed the Members to read only the text of the adjournment motion, the speech made by him on the motion would be expunged.

Progs. 23rd November, 1959, Vol. XXIV, page 19.

BILL

Legislature has competence to pass the Road Transport Corporation (West Bengal Amendment) Bill, 1959

On the 30th November, 1959, when the Road Transport Corporation (West Bengal Amendment) Bill, 1959, proposing to amend a Central Act, was going to be introduced in the House, one Member Shri Basanta Kumar Panda raised a point of order questioning the competence of the Legislature to entertain the Bill proposed to be introduced. In his ruling given on the 1st December, 1959, the Deputy Speaker held the Bill to be in order and ruled that the point of order raised by the Member was not maintainable.

For full text of the ruling see Appendix X.

Progs. 30th November, 1959 and the 1st December, 1959, Vol. XXIV, pages 347-49 and pages 394-95.

OBITUARY REFERENCE

Persons for whom condolence should be observed in the House

As to the persons for whom obituary references should be made in the House, the Deputy Speaker observed as follows:

"There are certain rules for condolence. Perhaps my predecessor who has just resigned the office of Speaker had experienced this difficulty beforehand, and as if he had anticipated his successor's difficulties, he raised this point in the Conference of the Presiding Officers at Darjeeling. There was a threadbare discussion in the matter. It was decided there and the consensus of opinion was that the State Legislatures should observe the condolence for these persons, namely, those who are sitting members, or ex-members, or the members of the Lok Sabha or men of outstanding personality or national importance. The House of Commons also expressed the same views. The Lok Sabha Speaker also was of the opinion that condolence should be observed in cases of men of out-standing personality or national importance. As to who are the men of outstanding personality or national importance, he explained will be decided by the leader of the House in consultation with other leaders of different parties".

Progs. 21st September, 1959, Vol. XXIII, page 2.

SPEAKER

Election of Speaker

There is no breach of privilege or contempt of the House for not electing a Speaker immediately after the post becomes vacant

On the 4th December, 1959 and on the 5th December, 1959, Shri Siddhartha Sankar Ray and several other opposition Members raised a point of privilege that by postponing the election of the Speaker, the Government was showing disrespect to the House. In his ruling given on the 8th December, 1959, the Deputy Speaker observed that there had been no breach of privilege or contempt of the House by not electing a Speaker immediately after the Speaker resigned.

For full text of the ruling, see Appendix XI.

Progs. 4th December, 1959, 5th December, 1959 and 8th December, 1959,
Vol. XXIV, pages 585-86, 605-11 and 688-89.

No-confidence motion—Amendment thereof

May present a different proposition as an alternative to the original question—an amendment expressing confidence in the Speaker was allowed to the motion of no-confidence against him

On the 20th March, 1959, when the no-confidence motion against the Speaker was being debated, one Member (Shri Bejoy Singh Nahar) moved an amendment which had the effect of altering the motion to one expressing confidence in the Speaker. On the objections raised by certain other Members to the moving of the amendment, the Deputy Speaker ruled as follows:

"In my opinion the amendment is in order. There are precedents in the House of Commons in which what is known as hostile amendment, that is, one which contains a conflicting or incompatible proposition, is allowed..... May also cites cases in which amendments which are intended to evade an expression of opinion upon the main question by entirely altering its meaning and object are allowed. (May, 15th Edn. page 390).

May also says that the object of an amendment may be to present to the House a different proposition as an alternative to the original question and he proceeds. 'The latter purpose may be effected by moving to omit all the words of the question after the first word "that" and to substitute in their places other words of a different import.'

There is an express precedent of the House of Assembly of South Africa that where a motion of no-confidence was brought against the Speaker, an amendment expressing confidence in the Speaker in terms was allowed and was carried (Journal of the Society of the clerks at the Table, Vol. 23, page 90)."

Progs. 20th March, 1959, Vol. XXII, No. 3, page 270.

APPENDICES

APPENDIX I

Ruling given by Mr. Speaker on the 5th June, 1957 on the point of order as to whether other business can be taken up after Governor's Address.

Mr. Speaker: I will now give my ruling. A point of order has been raised as to the true meaning of sub-rule (4) of rule 3 of the West Bengal Legislative Assembly Procedure Rules. It is contended that after a notice is given of a motion that a respectful address be presented to the Governor in reply to her speech expressing the thanks of the Assembly for the speech delivered by her, the House shall have to be adjourned to a future date for the discussion of that motion and that no business can be transacted before the dates fixed for the discussion of the said motion, in other words, objection has been taken to the laying of ordinances and Rules and presentation of the budget for the year 1957-58. In my view Article 176 of the Constitution of India read with the relevant provisions of the Assembly Procedure Rules does not support the contention raised in the point of order. Clause (2) of Article 176 of the Constitution before amendment provided as follows. I am reading out the relevant article "Provision shall be made by the rules regulating the procedure of the House or either House for the allotment of time for discussion of the matters referred to in such address and for the precedence of such discussion over other business of the House". This article was amended by the Constitution (First Amendment) Act, 1951 and the words "and for the precedence of such discussion over other business of the House" were deleted. The analogous provision dealing with the President's speech is in Article 87 of the Constitution. Article 87(2) was similarly amended by the said amending Act by the omission of the words "and for the precedence of such discussion over other business of the House". To my mind the object of this amendment by way of omission was expressly intended to take away the right of precedence of such discussion over other business. If the right of precedence is not there, there is no reason why other business cannot be transacted even before the discussion of the Governor's address. If the Assembly Rules are in any way inconsistent with the Article of the Constitution, the Article of the Constitution will prevail. In this particular case. I am of the view that the rules is not inconsistent. Moreover, the word "adjourn" should be construed with reference to the object of the context and with reference to the object of the enquiry. Here the object clearly is to enable the members of the House to put in amendments and thereafter to discuss the motion of thanks. The object is not to adjourn the House for all purposes but to adjourn for the purpose mentioned above. The practice of the House has also been to take up other business on the same day on which the motion of thanks has been moved. The English text books relied on by the honourable member are not applicable and are irrelevant in the present context having regard to the clear provisions of our constitution. My decision on the point of order raised is that other business can be transacted but so far as the discussion of the motion of thanks is concerned, that discussion should be adjourned to a future date. The point of order is therefore, rejected.

APPENDIX II

Ruling of Mr. Speaker on the points of order raised on the West Bengal Irrigation (Imposition of Water Rate for Damodar Valley Corporation Water) Bill, 1958

Mr. Speaker: Gentlemen, I have my ruling about that particular matter and the points of order. It is a written ruling and I think I would do well by making it over and not waste time by reading it. It will be cyclostyled and circulated.

The following points of order have been raised in connection with the abovementioned

- (1) Whether the Bill is a taxation measure and can be introduced when there was no reference to such a measure in the Governor's speech?
- (2) Whether a compulsory levy on water rate as is proposed by this Bill is permissible under the Damodar Valley Corporation Act, 1948? If it is not, is the Bill *ultra vires*?
- (3) Whether the Bill falls within Article 288 of the Constitution, and in the absence of the President's consent, can it be introduced in the House?
- (4) Whether the State Legislature is competent to enact the measure?

With regard to first point of order I hold that it is a taxation measure and Governor's sanction has been duly obtained for introducing the Bill. There is no legal difficulty in the way of the Bill being introduced for consideration. Mr. Subodh Banerjee and Mr. Deven Sen urged that there was mention of the fact that such a Bill would be introduced, in the Governor's speech. Neither the Constitution nor the Assembly Procedure Rules anywhere lays down the principle that a Bill cannot be introduced if no mention is made that such a step would be taken in the Governor's speech.

With regard to the second point of order, I hold that the present Bill, if passed by the Legislature, will not be *ultra vires*. It has been suggested that the proposed legislation sought to override some of the provisions of the Damodar Valley Corporation Act, 1948, particularly, section 14 which is in the following terms:

"The Corporation may after consultation with the Provincial Governments concerned determine and levy rates for the bulk supply of water to that Government for irrigation and fix the minimum quantity of water which shall be made available for such purpose, the rates at which such water shall be supplied by the Provincial Government to the cultivators and other consumers shall be fixed by that Government after consultation with the Corporation."

The Damodar Valley Corporation Act, 1948, was enacted before the Constitution came into being. A provision has been made in the present Bill that the proposed Act shall have effect notwithstanding anything to the contrary contained in the Act or any other law or contract for the time being in force. Having regard to the above, there is no legal difficulty in enacting a law which may have the result of overriding some of the provisions of the Damodar Valley Corporation Act.

In answer to the third point of order which has been raised by Mr. Bankim Mukherjee, I hold that Article 288(2) has no application. Article 288(1) exempts from taxation by State in respect of water or Electricity in certain cases of inter-State utility. The object of this Article is to exempt, subject to any order of the President to the contrary, certain objects of inter-State public utility from existing State taxation. Future taxation of such concern by the State is also made subject to President's assent to such legislation. If an illustration is sought for "any authority established by any existing law" instance may be found from Damodar Valley Corporation Act itself. Sections 13 to 21 of the Damodar Valley Corporation Act 14 of 1948 empowers the Corporation to sell water and electricity under certain conditions.

Article 288(2) imposes a similar restriction on the power of State Legislature to the imposition of any such tax as is mentioned in Article 288(1). Neither Article 288(1) nor Article 288(2) has any thing to do with the power of the State Legislature to introduce measure for taxing the cultivators direct. In view of the above I hold that the previous assent of the President is wholly unnecessary.

With regard to fourth point of order I hold that this Legislature is competent to deal with it as it is covered by item 17 of the State List in Schedule 7.

APPENDIX III

Ruling of Mr. Speaker delivered on the 28th March, 1959, on the Constitutional points raised on the Appropriation Bill

A point of order was raised by Sj. Basanta Kumar Panda that the Appropriation Bill, 1959, could not be introduced as it was *ultra vires* of the Constitution, on the ground (a) that the beginning of the year for which the money was granted had not been mentioned; (b) that the Bill did not provide for appropriation as required by Article 204 but only provided for payment and application; and (c) that the Bill provided for only charged amounts and not for the voted amounts.

I allowed the Bill to proceed and promised to give a written ruling which I propose to do now. As regards objection (a) it may be pointed out that when the day on which a particular year is to end is given there is no difficulty in finding out the beginning of the year. As the last day of the year is given in the Appropriation Bill as the 1st day of March, 1960, it is obvious that the beginning of the year according to the English year will be the first day of April, 1959. There is, therefore, no ambiguity so far as the year for which the money has been granted is concerned.

As regards objection (b), it will be noted that under Article 204, Clause (3) no money can be withdrawn from the Consolidated Fund of the State except under appropriation made by law passed in accordance with the provisions of this Article. Sj. Basanta Kumar Panda seems to have noticed only Clause (2) of the Bill which provides for the issue of the total sum (voted and charged) out of the Consolidated Fund. It is Clause (3) which provides expressly for the appropriation of the money to the several services and purposes mentioned in the Schedule.

As regards objection (c), Sj. Panda referred to the word "charges" in Clause (2). "Charges" in that Clause does not refer to the expenses charged on the Consolidated Fund; it only means expenses. In the Schedule the sums which have been voted by the Assembly and which are charged on the Consolidated Fund have been clearly and separately shown.

As regards the contention that the Civil Budget Estimate which was presented on the 11th February last mentioned the year 1959-60. I do not think there can be difficulty in ascertaining the year for which the money was asked for. In the financial statements which the Finance Minister made in the House he expressly stated that he was presenting "the Budget Estimates of the State of West Bengal for the Financial Year 1959-60". "Financial Year" as Sj. Panda has himself pointed out begins on the first of April of the year. Therefore, the Financial year 1959-60 means the year which begins on the 1st of April, 1959 and ends on the 31st March 1960.

There is, therefore, no substance in Sj. Panda's argument. Dr. Jnanendra Nath Majumder mentioned another point that there should be three Bills and not one Bill and he said that the Public Debt Account could not be included in the Appropriation Bill. Dr. Majumder apparently made a confusion between "Public Debts" and "Public Account". No Bill is necessary for the withdrawal of any money out of the Public Account. Appropriation Bill is necessary only for the purpose of withdrawal of money out of the Consolidated Fund. Payment of Public Debt and Interest thereon has to be made out of the Consolidated Fund and therefore, the Public Debt is included in the Appropriation Bill. There is nothing in this objection also.

APPENDIX IV

Ruling of Mr. Speaker, delivered on the 17th February, 1959, on the point of order raised by Sj. Siddhartha Shankar Ray regarding alleged unconstitutionality of the Budget.

Mr. Speaker: I am now giving my ruling which I reserved yesterday. A point of order has been raised by Sj. Siddhartha Shankar Ray that the Budget discussion cannot proceed as the Budget has not been prepared in accordance with the provisions of the Constitution. My pointed attention was drawn to articles 202, 266, 267 and 283(2) of the Constitution.

Article 266 lays down the law relating to Consolidated Fund and Public Accounts. Article 267 deals with Contingency Fund. It has been urged from page 1 of the Red Book that under the broad headline 'Revenue' all the three accounts of funds have been placed. When I used the word "Red Book", I have taken the word from the old state of affairs, although Sj. Siddhartha Shankar Ray called it 'Orange Book'. It is further contended that this cannot be done as Public Accounts Fund and Contingency Funds can never be Revenue. To my mind it would have been better not to use the word 'Revenue' in the "Red Book" on top to cover the three funds. This, however, is not likely to mislead anybody as one glance would show that Public Account and Contingency Funds have been placed under different categories. They have not been mixed up in a fashion so as to make them indistinguishable. It may be noted that at the end the words "Total Receipts" have been used to distinguish it from the total revenue receipts. The "Red Book" is merely an explanatory document to help the members.

Further, page 1 of the "Blue Book", which is the real Budget Estimate of the Government of West Bengal, will show that the Budget Estimate for 1959-60 gives on the one hand general abstract of revenue and on the other hand "Other Receipts". At page 11 of the "Blue Book" the Contingency Fund has been put under a separate head and the Public Accounts Fund also under a separate head from the expenditure account of the Consolidated Fund. This satisfies article 202(2) of the Constitution; the language used there is the "estimated expenditure on revenue account should be distinguished from other expenditure." In the Appendix to the speech of the Finance Minister the expenditure on the revenue account has been kept distinct from other expenditure. This satisfies the provision of articles 266(1) and (2).

The second point raised by Sj. Siddhartha Shankar Ray is that certain sums under the head 'Public Accounts' have not been accounted for and he has sought to give a number of instances. The point raised by Sj. Siddhartha Shankar Ray would have carried weight if it were necessary to acquaint the House through the Budget of the Assets and Liabilities of the Government; it is not at all necessary to do so. The Budget primarily deals with probable receipts and probable expenditure for a particular year and it is for the Accountant-General to find out whether all sums, which the Government handles, have been properly accounted for or not.

Sj. Sisir Das has urged that the Government is in the position of trustee and the principles of the law of trusts by analogy should be made to apply.

The Constitution lays down how Budget Estimates should be prepared, in what way appropriation should be made and in what way the Legislature should accord its sanction to it and finally how accounts are to be audited. This is purely a statutory matter and should be governed by statutory enactments. I do not think it is necessary for me to say anything more about Sj. Sisir Das's contention.

The third point urged is that the Government cannot deal with Public Accounts Funds in the absence of proper rules framed by the Governor under article 283(2) of the Constitution. The Chief Minister, who happens to be Finance Minister as well, in answer, has drawn our attention to the Treasury Rules framed under article 283(2) of the Constitution; in the result it is not correct to say that the rules which are being given effect to are the rules framed under the Government of India Act, 1935.

With the commencement of the Constitution of India rules framed under the Government of India Act, 1935, were continuing in force in so far as they were not inconsistent with the provisions of the Constitution. The Treasury Rules made by Governor in exercise of the powers conferred by sub-clause (2) of article 283 of the Constitution of India are operative at the present moment. In Rule 3 of the Treasury Rules the direction has been given about the location of moneys standing in the Public Account. It is laid down in Rule 3 that 'moneys' standing in the Public Account must either be held in the Treasury or in the Bank. Moneys deposited in the Bank shall be considered as one general fund in the books of the bank on behalf of the State". Shri Sudhir Chandra Roy Choudhuri has drawn my attention to a passage in Shri Durgadas Bose's "Commentary on Constitution", 2nd Edition (page 700) and states that this rule recapitulates the earlier Rule but the newly framed Rules must not be in conflict with the Articles of the Constitution. In principle Sj. Sudhir Ray Choudhuri is right but my attention has not been drawn to any rule which is in effect inconsistent with or contrary to the Articles of the Constitution.

Regarding the objection taken by Shri Subodh Banerjee, regarding Contingency Fund, which has been dealt with by Article 267, he has urged that from the Budget it does not appear how much money has been contributed and is lying in the Contingency Fund. I have already pointed out that the object of the Budget Estimate is only to place before the House the estimated amount of receipts and expenditure. The Contingency Fund (of West Bengal Act of 1950 provides for the creation of a contingency Fund) amounting to Rs. 5 crores. Withdrawals and recoupments from such fund are made exactly in the manner as laid down in the Constitution. It is there. When any amount is spent under Article 267 authorisation has to be obtained under Article 205 and Article 206 of the Constitution.

My attention has been drawn to the Red Book, page 214, in which the only figure appearing under the head "Public Accounts" on account of Special Relief Fund is Rs. 80 lakhs. It appears from page 146 of the Red Book that a sum of Rs. 80 lakhs is shown on the expenditure side under "54—Famine" and with that amount a Special Relief Fund has been set up which is shown under head "Public Accounts" at page 214 of the Red Book. So there is no confusion.

In the result, I negative the contention raised by Shri Siddhartha Shankar Ray, Shri Sudhir Chandra Roy Choudhuri, Shri Sisir Das and Shri Subodh Banerjee.

APPENDIX V

Ruling of Mr. Speaker delivered on the 28th November, 1960, on the point of privilege raised by Shri Shankardas Bandyopadhyay requesting the Speaker to reconsider his decision in allowing Shri Satyendra Narayan Majumdar to make a statement in reply to a question put by Shri Jyoti Basu with the permission of the Speaker

Mr. Speaker: I have reconsidered my decision whereon Sj. Majumdar was permitted to make a statement with reference to Sj. Jyoti Basu's adjournment motion. I think my decision was right and I have given my reasons which I herein order to be circulated to members.

Honourable Members will please remember that I had promised on last Wednesday to give my considered opinion on the subject of an adjournment motion tabled by Sj. Jyoti Basu whereon I had allowed Sj. Satyendra Narayan Majumdar to make a statement on Tuesday last. Sj. Sankardas Banerjee on the day following drew my attention to the said decision and requested me to reconsider it on the ground that it might create an extraordinary precedent in the House in case I had applied Rule 31(2) in the case under consideration. He had been pleased to refer to Rule 31(2) of the Assembly Procedure Rules and had given his own interpretation as to its applicability in the present case. From the proceedings Hon'ble Members will please find that I did not say that I permitted an answer to be given to a question put under Rule 31(2) of the Assembly Procedure Rules. I allowed Sj. Majumdar only to make a statement because he was the subject of an adjournment motion tabled by Sj. Jyoti Basu in which he seemed to appear in a bad light as his name had been unfortunately mentioned in connection with some business of the House, namely, Sj. Jyoti Basu's adjournment motion. In such a case Sj. Majumdar was perfectly entitled to clear up the position by making a statement and I gave him permission accordingly.

In a similar case in the House of Commons when Mr. Attlee the Leader of the Opposition in the House of Commons, became subject of a criticism in a motion he had been allowed to make a personal statement a view to clearing himself of the charge (vide House of Commons Debates, dated 13th December, 1937).

In another case in the House of Commons, Mr. Speaker ruled that it was in order for an unofficial Hon'ble Member to ask another unofficial Hon'ble Member a Question on some subject with which the latter Member was connected, that is to say, with a motion or a Bill. I quote the words of Mr. Speaker:

"There is a definite rule that it is not in order for an Hon'ble Member to ask another Hon'ble Member a question but there are exceptions to that rule. It has taken place in the past. It is not in order for unofficial hon'ble members to ask another unofficial Hon'ble Member a question on general knowledge or on the merits of a particular case; but on some question with which an Hon'ble Member is connected, that is to say, with a motion or Bill, it has been ruled in the past that an unofficial Hon'ble Member is entitled to ask a question on that subject." (vide House of Commons Debates, dated July, 1, 1942.)

This is the general proposition irrespective of whether Rule 3/(2) applied to such cases.

In similar circumstances in Indian Parliament statements by Members whose conduct inside or outside the House has been referred to on the floor of the House have been permitted and it has been held that any hon'ble member to whom a reference is made on the floor of the House with respect to his conduct whether inside or outside the House must have an opportunity to explain (vide statement of Shri Deshpande on reference being made by the Home Minister to his conduct and incidents outside the House which was the subject of an adjournment motion, H. P. Deb. 11th March, 1953). The same practice has been followed here in this House in a number of cases of which hon'ble members are aware. Whether Rule 31(2) applied in terms or not, what I did was to permit Sj. Satyendra Narayan Majumdar to make a personal statement to clear up his position in respect of the unfavourable light in which he was made to appear in Sj. Basu's adjournment motion and not that Sj. Majumdar was answering the question asked by Sj. Jyoti Basu within the meaning of Rule 31(2). If the hon'ble members would have taken the trouble of looking into the proceedings of Tuesday, which were hung up on the following morning in the Lobby, the reason why I permitted Sj. Majumdar to make a personal statement would have been amply clear and the question of reconsideration of a decision would not have arisen.

Lastly, I may say that if any other decision had been taken by me, namely, if the making of a statement by Sj. Majumdar was not permitted under the circumstances, that would have denied the House the first quality of a really deliberative Assembly.

APPENDIX VI

Ruling of Mr. Speaker delivered on the 7th April, 1960, on the point of privilege raised by Dr. Ranendra Nath Sen whether paper quoted is to be laid on the Table

Mr. Speaker: A point of privilege was raised by Dr. Ranendra Nath Sen whether a paper quoted is to be laid on the Table or not. I have given my written ruling today.

Hon'ble members will please remember that I had assured the House that I would consider the point raised by several members as to what should be the principle and procedure to be followed in this House as regards citing documents. In this connection before I express my opinion I would like to state the rule or the principle which is being followed in the House of Commons or in the Lok Sabha. A Minister in the House of Commons is not at liberty to read or quote from a despatch or other State papers not before the House, unless he be prepared to lay it upon the Table. This is a principle deduced from the practice of production of documents in a Court of Law. Court prevents counsel from citing documents which have not been produced in evidence. The principle, as May says, is so reasonable that it has not been contested and when an objection has been taken in time, (I would like the hon'ble members to refer to the word 'in time'), it has been generally acquiesced in. It is, therefore, admitted that a document which has been cited ought to be laid upon the Table of the House, if it can be done without injury to the public interest. But when a Minister summarizes a correspondence, but does not actually quote from it, he is not bound to lay it. But this rule does not apply to private letters or memoranda. There is also another exception to this rule, i.e., members not connected with Government can cite

documents in their possession—both public and private—without laying them on the Table. The Lok Sabhas has embodied this very principle as enunciated by May in its rules 368 and 369. The rules may be quoted in extenso:

"Rule 368—If a Minister quotes in the House a despatch or other State paper which has not been presented to the House, he shall lay the relevant paper on the Table:

Provided that this rule shall not apply to any documents which are stated by the Minister to be of such a nature that their production would be inconsistent with public interest:

Provided further that where a Minister gives in his own words a summary or gist of such despatch or State paper it shall not be necessary to lay the relevant papers on the Table.

Rule 369—(1) A paper or document to be laid on the Table shall be duly authenticated by the member presenting it.

(2) All papers and documents laid on the Table shall be considered public."

Now, turning to the precedents of this House, if any, I may inform the hon'ble members that this salient principle has been accepted by this House (vide Proceedings dated 25th August, 1955, Vol. XII, No. 1, pages 599-600). As the members did not take objection in time, I could not request the Hon'ble Minister for laying the document. Shrimati Maya Banerjee had quoted from May, 16th Edition, page 461. I am sorry to say that she has confused the issue. The letter in question could not be said to be a private letter or a memorandum—so her contention fails. However, in conclusion I would like to observe that the rules of Lok Sabha which embody a good principle of debate followed in the House of Commons may be followed here. I am glad to inform the House that the Rule making Committee has already accepted the principle and has embodied it in the draft rules which will be placed before this House for approval.

APPENDIX VII

Ruling given by the Speaker on the 25th June, 1957, as to who should be recognised as the Leader of the Opposition

Mr. Speaker: I shall give a ruling. The question is who should be recognised as the Leader of the Opposition. In England, the status of the Leader of the Opposition was first recognised by the Ministers of the Crown Act, 1937 (1 Edw. 8, and 1 Geo. 6, ch. 38) which provided for the salary for the Leader of the opposition and defined the terms as "that member of the House of the party in opposition to His Majesty's Government having the greatest numerical strength in that House". There is no such statutory recognition of the Leader of the opposition in India. But by courtesy and convention a Leader of the Opposition is often recognised in every House of Legislature in this country. In a House which consists of two parties only, the question who is to be recognised as the Leader of the Opposition is an easy one. But the question becomes difficult when the House comprises more than one party or group. It may be noted that such a circumstance is envisaged by the Ministers of the Crown Act, 1937, which provides that if there is any doubt as to which party having the greatest numerical strength is in the Opposition or who is the Leader of such a party a decision in by the speaker shall determine the question finally. When, or, there are several parties in the House, it is left to the discretion

of the speaker to determine who is to be the Leader of the Opposition. In 1939 when there was a National Government in England, and there was no recognised leader of the opposition, a question was raised whether a leader of the opposition should or should not be recognised. Mr. Churchill, the then Prime Minister, stated that in view of the formation of a Government embracing the three main political parties the Government was of opinion that the provisions of the Ministers of the Crown Act relating to the salary of the Leader of the Opposition was in abeyance. Mr. Speaker Fitz Roy observed in this connection that it could not be said that there was then an opposition in Parliament in the hitherto accepted meaning of the words, namely, a party in opposition to the Government from which an alternative Government could be formed. This ruling however, is of no help in the present case. It was given at a time when the two main opposition parties, viz., the Labour and the Liberal, had joined the Government and there was only a handful of members who formed the so-called Opposition. In 1952, it is understood that the Late Mr. Speaker Mavalankar did not recognise the leader of the Communist Party as the Leader of the Opposition, because the Communist Party members could not be recognised as a "party" in the House—their numbers falling below the requisite number required to form a party. In 1952, in this House although the leader of the Communist Party was recognised as the Leader of the main Opposition Party, he was not recognised as the Leader of the Opposition. The circumstances then existing support the ruling of Mr. Speaker Mukherji. The Communist Party was a party in the House their number being 30. But the other groups in opposition collectively had a strength of 51. Therefore, the Communist Party could not be said to be a party in opposition having the largest numerical strength in the House. If the other groups had combined to form a party, they would have had the greatest numerical strength. In the present House the party and groups in opposition combined have a strength of 99. Out of them the Communist Party have 51 members, that is, more than the number of members of all the other groups taken together. In the circumstances, the Communist Party satisfy the test of the greatest numerical strength in the House. Following the principle laid down in the Ministers of the Crown Act, 1937, not as a binding precedent but as a guide, I declare Shri Jyoti Basu, the Leader of the Assembly Communist Party, as the Leader of the Opposition.

The privilege which the other Opposition Groups enjoy will not, however, be curtailed in any way by this declaration and they will continue to enjoy the same.

APPENDIX VIII

Ruling of Mr. Speaker on the point raised by Shri Siddhartha Shankar Ray on the 4th March, 1960, regarding disbelieving the statement of a Member and arrogating to himself the powers of the Privilege Committee by the Speaker

Mr. Speaker: Honourable Members will please remember that I promised to give my ruling over the question of privilege raised by Shri Jatin Chakravorty and Shri Subodh Banerjee. I have given my written ruling. That will be part of the proceedings and will be laid on the Table.

Hon'ble Members will please remember that I had assured the House that I would reconsider the observations made by some hon'ble members on the effect of the ruling I had given on the 3rd March, last. I have considered very carefully the observations made by the Members and with great respect I may state that the ruling given by me on the 3rd March, last, stands.

The question of disbelieving the statement of a Member and the of Speaker's arrogating the functions and powers of Privilege Cases which were raised by Shri Siddhartha Shankar Ray, do not arise. I have neither disbelieved that statement of the Member nor have I arrogated the powers as will be evident from my observations made on the 3rd of March last. Shri Siddhartha Sankar Ray raised two points which I answer in the negative. I may inform the Hon'ble Members that a Bill before it is circulated to the Members is published under Rule 48 of the West Bengal Legislative Assembly Procedure Rules in the "Calcutta Gazette" and the public receive the copies of the Bill long before the Members are given copies of the Bill from the Assembly Office. The members receive the copies of the Bill only after a notice is received from the Member-in-Charge of the Bill intimating his desire to proceed with the Bill. The practice in India differs largely from the practice obtaining in the House of Commons. In the House of Commons copy of a dummy Bill is presented and the House orders printing of the Bill in each case.

On the last occasion, Shri Jatin Chakravorty had asked me to enquire into the matter. But Shri Subodh Banerjee had actually raised the question of privilege. His point of privilege was that briefing of a Member to support a clause is a breach of privilege. But I may add with due respect to the hon'ble member that request to a Member to support some provisions of a Bill unconnected with threatening the Member or bribing the Member in case he does not, is not a *prima facie* case for privilege.

Speaker's duty is to see if there is a *prima facie* case for reference to the Committee of Privileges and in that case only, he will refer the matter to the Committee. In this case, I found no *prima facie* case and that was my observation. No question as to the belief or disbelief of a Member arises and that is why I had asked the Member to put in a question to get more facts. By suggesting this procedure I thought the purpose of the enquiry for which the Member had requested me would be met.

I would like to draw the attention of the House to a case of a similar nature reported in the House of Commons Debate (vide H.C.D. 1909 Vol. IX C8, 2423). In that case the explanatory memorandum on a Bill was published in a newspaper long before the Members had received the copies and long before it was laid on the Table of the House. The question of privilege was raised and the Speaker found no *prima facie* case and it was not referred to the Committee of Privileges. I would like to refer to another case reported in the Lok Sabha Debate, dated the 5th September, 1955. The question of privilege was raised on the ground that the Bank Award Commission Report was published in a newspaper in advance of placing the Report on the Table of the House. The Speaker held that it was improper but in spite of his doubts he did not refer the matter to the Committee of Privileges. His observation was that impropriety should be distinguished from the breach of privilege. Shri Subodh Banerjee had drawn my attention to cases where premature disclosure of budget takes place. He will agree with me that such premature disclosures are not deemed to be a breach of privilege either in India or in the United Kingdom, although the House has ample power to take action otherwise in any manner it chooses—I would refer to Thomas case, Dalton case and Deshmukh case. [Ref. H.C.D. 1936, Vol. 321, C 1345 and also H.C.D. 1948, Vol. 444, C 821 see also L.S.D. 19th March, 1956]. I have already observed that Speaker has no authority to prejudge an issue. The Speaker is the custodian of the rights and privilege of the House and is charged with the imperative duty to guard jealously the powers and privileges of the House. I can assure the Members that this right will never be allowed to be infringed, but it is also the duty cast on the

Speaker to see that there is a *prima facie* case before the matter is referred to the Committee of Privileges. If the Speaker finds a *prima facie* case he refers it to the Committee. As there was no *prima facie* case, I did not refer it to the Committee of Privileges.

So my previous ruling stands.

APPENDIX IX

Ruling of Mr. Speaker delivered on the 28th March, 1959, on the point of privilege regarding withdrawal of recognition of the West Bengal Ministerial Officer's Association

Mr. Speaker: Siddhartha Shankar Ray raised a point of privilege on the 11th February last. He said that because he had addressed a conference of the West Bengal Ministerial Officers' Association at Bankura, the Association had been served with a notice to show cause why the recognition accorded to it by the Government should not be withdrawn. I had, on the very day, given my opinion that *prima facie* there was no breach of privilege. Subsequently, I was requested by Sj. Jyoti Basu, the Leader of the Opposition, to reconsider my decision as it was a matter of some importance.

I have reconsidered the matter very carefully and I adhere to the view which expressed earlier. It is true that a notice has been served on the West Bengal Ministerial Officers' Association to show cause why its recognition should not be withdrawn on the ground that outsiders had taken part in the deliberations of the conference. Whether that notice is valid or justified or whether some other members of the Assembly addressed such conferences previously without any previous permissions of the Government and that the Government did not take any action—these are matters on which I am not called upon to express any opinion. I shall take it that the Association had been served with a notice to show cause because Sj. Siddhartha Shankar Ray had addressed the conference.

Government Servants' Association is granted recognition *inter alia* on the condition that outsiders should not be allowed to take part in the deliberations of the conference, be he an M.L.A. or not. If the Association violates any of the conditions for recognition, Government can call upon the Association to explain why its recognition should not be withdrawn. It is a condition entered into by the Government servants with the Government. Government is not taking any action against the M.L.A. as such nor questioning the right of any M.L.A. to address any meeting. It is only an accident that in this case it happened to be an M.L.A. That Chief Guest might be an outsider as well. I, therefore, hold that no *prima facie* case of breach of privilege of this House or of any member thereof has been committed by the issue of the notice complained of.

I have looked into the reports and proceedings of the House of Commons. I find that apart from the Select Committee set up by the House of Commons in connexion with Sandy's case, another Select Committee was set up to consider the general question of the manner in which members can properly make use of information supplied to them in contravention of the Official Secrets Acts. The Committee advised that while members are themselves privileged from prosecution under the Acts for disclosure made in the House the privilege does not entitle a member to solicit or knowingly receive information from public servants in contravention of the Acts. On the same analogy, there is no such privilege as that an M.L.A. is entitled to address an association of public servants in contravention of the rules. That, I feel,

contemplate recognition by Government on, *inter alia*, the condition that the association does not allow an outsider to address its meetings (except with Government's previous permission). If an Association, which has been granted recognition by Government on this condition still invites an outsider (including an M.L.A.) to address its meetings, it does so in full awareness of the risk it runs, viz., that its recognition may be withdrawn. As already said a member's privilege does not extend to doing something which involves others in violation of rules. Even if there is such a privilege, it is personal to the member himself and he can complain of breach of privilege only if any steps are proposed to be taken *against him* for his action. In Sandy's case, Sandy obtained information about official secrets in contravention of the Official Secrets Act and disclosed them in the House and the action proposed to be taken against him on the Attorney-General's advice, viz., sending of a summons to him, was held to be a breach of privilege. In the present case, there is not even any suggestion that action should be taken against the M.L.A. for his addressing a meeting of an association, so that no question of breach of privilege can arise, even if there is any privilege of addressing an association of public servants in contravention of the rules.

A parliamentary privilege is a technical concept and not just any and every right which a member thinks he ought to have.

There is another aspect of the matter. The rationale of a privilege is that it is necessary in the discharge of the member's parliamentary duties. Addressing an association of Government servants even though the association is under the rules bound not to allow any outsider to address its meetings must be justified as being necessary in the discharge of the member's parliamentary duties.

In an article by Sir Frederic Metcalfe published at page 131 of the Journal of the Society of Clerks in Empire Parliament there is a discussion of the Pritt case in 1952, Mr. Pritt was appearing for the defendants in the Magistrate's Court at Kepenguria in Kenya. Four M.Ps. who had been raising in U.K. Parliament questions about the conduct of this case sent a cable to Mr. Pritt, asking for further information about the case. Mr. Pritt sent them a lengthy cable in the course of which he said: "It amounts in all to a denial of justice". One of these four M.Ps. thereafter raised as "a breach of privilege" the starting of proceedings or contempt of court against Mr. Pritt in respect of his cable, arguing that Mr. Pritt had been placed in jeopardy as a result of supplying information asked for by those four M.Ps. As the Attorney-General said that no contempt of court had actually been started against Mr. Pritt, Mr. Speaker did not think that there was at all a case of breach of privilege.

It thus appears that the Pritt case did not add anything to the law of Parliamentary privilege in so far as no decision was taken. A breach of privilege was only *alleged* by saying that Mr. Pritt had been placed in jeopardy as a result of supplying information asked for by certain M.Ps. in the course of their Parliamentary duties. There was no finding that there was a breach of privilege. Even if there was at all any breach of privilege the present case is different. One can at least understand that, in the course of discharge of Parliamentary duties, when an M.P. *himself* asks for certain information from somebody, the latter should not be put into trouble by reason of something said by him in the course of supplying that information. In the present case the Member did not himself ask that he should be invited to address a meeting of the Association. It was the Association itself which deliberately invited the Member to address its meeting, knowing fully well that under the rules it was precluded from doing so on pain of withdrawal of its recognition. If anybody placed himself in jeopardy, it was the Association itself. It was not the Member who placed the Association in jeopardy. We have

necessarily to distinguish the two cases even if it be held that it amounts to breach of privilege when a person called upon by a Member to supply some information commits an offence in the course of supplying that information and is published for that.

In *Rex vs. Rule* which is referred to by Sri Metcalfe and which is reported in [1937] 2 All E.R. 772 the question of privilege which was raised was entirely different from Parliamentary privilege. This case dealt with the question of the circumstances in which the making of certain libellous statement was privileged, Rule wanted to bring to the notice of the Home Secretary or the Minister of Health certain matters alleging grave and criminal conduct against the Detective Sergeant and also a Justice of the Peace. If he had sent a communication to the Home Secretary direct, it is indisputable that it would have been a privileged communication. Instead of doing so, however, Rule wrote to the M.P. of his constituency asking the latter to arrange an appointment with the Home Secretary but the M.P. said that it was impossible for him to ask the Home Secretary for an appointment unless he had first intimated to him what the purpose of the appointment was. Rule thereupon wrote two letters to the M.P. containing allegations of grave and criminal conduct against a Detective Sergeant and also a Justice of the Peace. He was charged with publishing defamatory libels and was convicted. In appeal the conviction was set aside by the Court of Criminal Appeal, Lord Hewart L.C.J. delivering the judgement. Lord Hewart held that Rule was not actuated by malice and although these libels were wholly untrue Rule honestly believed them to be true and in publishing them was not influenced by any wrong or indirect motive. Lord Hewart quoted with approval the following observation from *Harrison vs. Bush*:

"A communication made bona fide upon any subject-matter in which the party communicating has an interest, or in reference to which he has a duty, is privileged if made to a person having a corresponding interest or duty, although it contains criminary matter which, without this privilege, would be slanderous and actionable".

What was thus decided in *Rex vs. Rule* was not a question of Parliamentary privilege. It was the ordinary question whether a communication containing libellous statements would in certain circumstances become privileged. *Rex vs. Rule* merely extends the number of privileged occasions so as to include the case of a constituent writing to his M.P. upon an allegation of improper conduct by a public official. In connection with the law of libel and slander, Halsbury had made an exhaustive treatment of the subject of "privileged occasions" as a part of the larger subject of qualified privilege, vide Halsbury Edition, Vol. 20, pp. 470-478, paras. 573-574. This subject of qualified privilege in connection with the law of libel and slander, is quite different from the law of Parliamentary privilege. For example the well-known case of *Wason vs. Walter* which is often cited as a case of Parliamentary privilege, really lays down the ordinary law of privilege in connection with slander and libel. This case recognises, although the matter is not one of Parliamentary privilege, that the common law accords the defence of "qualified privilege" to the publication of unauthorised reports of parliamentary proceedings whether in newspapers or elsewhere, if such reports are fair and accurate. Cockburn CJ. after remarking that reports of Parliamentary proceedings were on the same legal footing as judicial proceedings observed that it was of paramount public and national importance that Parliamentary proceedings should be communicated to the public which has the deepest interest in knowing what passes in Parliament. Hence the Proposition really was that unauthorised publication of proceedings, whether judicial or parliamentary, was privileged against an action for libel and slander if such reports were fair and accurate. This is really a matter of common law privilege and not one of Parliamentary privilege.

If a person is put in jeopardy because of his communication to or association with a member in the course of his Parliamentary duties a breach of privilege may be committed for any action or threat of action which may impede the discharge of Parliamentary duty of a member within the meaning of proceedings in Parliament and will not be tolerated. But here Sj. Ray did not address the conference in the discharge of his Parliamentary duties. I quote a few lines from Harbert Morrison's well-known book, "Government and Parliament". There he says:

"I am not sure what would happen if circumstances arose which required an extension of privilege in order properly to protect the collective work of the House. It is important to realise that the word 'privilege' in this connection has a relationship to the dignity and the free functioning of the House as a whole. It is not a question of the privileges of individual M.Ps. except in so far as they are related to the functioning of the House as a whole. The desire not to extend the privileges of Parliament stems from a general feeling among us that the last thing we should do would be to extend Parliamentary privilege in ways which would limit the civil and democratic rights of the people".

I have exhaustively dealt with the matter and I am of opinion that there has been in this case no *prima facie* case of breach of privilege.

APPENDIX X

Ruling of Mr. Deputy Speaker delivered on the 1st December, 1959, on the point raised by Shri Basanta Kumar Panda on the 30th November, 1959, on the Road Transport Corporation (West Bengal Amendment) Bill, 1959.

Mr. Deputy Speaker: After the introduction of the Road Transport Corporation (West Bengal Amendment) Bill, 1959, the honourable member Sj. Basanta Kumar Panda raised a point of order questioning the competency of this Legislature to entertain the Bill proposed to be considered. I held after hearing the honourable member and the Chief Minister, who was piloting the Bill, that the Bill was in order. However, I desired that a ruling would be delivered by me today in the House and so I further observe that in my opinion, the subject matter of the Bill is included within the entry 13 of the State List and entries 6, 7, 13 and 35 of the Concurrent List. Therefore, the Bill is within the competence of the State Legislature. The Bill, however, will be required to be reserved for consideration of the President under Art. 200 read with Art. 254(2) of the Constitution of India. Under the Road Transport Corporation Act, 1950, which is a Central Act, the State Transport Undertaking in Calcutta and Cooch Behar can be managed by Corporations formed under the Act. For the transfer of liabilities and obligations under contracts or otherwise in case of such transfer, there is no provision in the said Act to cover the same. There are other Central Acts where the Corporations have been allowed to be formed. There are provisions for transfer of such liabilities and obligations incurred by State Governments to such autonomous Boards (vide section 60 of the Electricity Supplies Act, 1948 and sections 7 and 9 of the Life Insurance Corporation Act, 1956). There is no such provision in the Road Transport Corporation Act. In such circumstances, in order to transfer the liabilities and obligations the Act is sought to be amended. It has therefore, been found necessary to amend the Act providing for transfer of assets and liabilities, contractual rights, etc. I, therefore, hold that the point of order, as raised by Sj. Panda, is not maintainable.

APPENDIX XI

Ruling of Mr. Deputy Speaker delivered on the 6th December, 1959, on the point of privilege raised by Sj. Siddhartha Sankar Ray on the 4th December, 1959, on the question of election of the Speaker

Under Article 178 of the Constitution of India, the Assembly is to choose a Member as Speaker so often as there is a vacancy in the office of the Speaker. For this purpose the Governor is to fix a date under rule 5(1) of the West Bengal Legislative Assembly Procedure Rules for the holding of the election. Since the Governor has not yet fixed a date for holding an election the question of election of the Speaker is as yet premature. No question of a breach of privilege arises in this context. Even in the House of Commons there is no such privilege. The Leader of the House has already assured the House that a date for holding the election of a Speaker will be fixed during the next session. When such date is fixed, the procedure laid down in rule 5(2) of the Assembly Procedure Rules will automatically come into operation. In view of this the matter need not be pursued. I also find that there has been occasion in the past when the vacancy in the office of the Speaker was not filled up immediately after it arose. For example, when Sir Azizul Haque resigned, no Speaker was elected until after a session had elapsed and another had advanced considerably. At that time also the election of the Speaker was governed by the Government of India Act, 1935 (Section 65), provisions of which were the same as in article 178 of the Constitution of India. Any reference to the provisions of the British House of Commons is not relevant, as the procedure of election of the Speaker there is different from that which is prevalent in India.

I do not consider, therefore, that there has been any breach of privilege or contempt of the House by not electing a Speaker immediately after the Speaker resigned. Furthermore, in view of the assurance given by the Leader of the House, the matter need not be pursued any further.

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